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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,454	07/13/2004	Robert M. Schmidt	04923 (LC 0159 PUS)	4453

36014 7590 08/29/2006

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EXAMINER
GLUCHOWSKI, KRISTINA R

ART UNIT	PAPER NUMBER
3676	

DATE MAILED: 08/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/710,454	SCHMIDT ET AL.	
	Examiner	Art Unit	
	Kristina R. Gluchowski	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 July 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) *4,8,12 and 16* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,5-7,9-11,13-15 and 17-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *13 July 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is response to amendments filed on 7/10/06. Claims 1-3, 5-7, 9-11, 13-15 and 17-20 are pending. Claims 4, 8, 12 and 16 are withdrawn.

Election/Restrictions

Claims 4, 8, 12 and 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on 7/10/06. In response to the applicant's remarks, it is noted that the examiner erroneously stated in the Office Action dated 5/2/06 that claims 5-7, 11, 15, and 20 are withdrawn. Claims 5-7, 11, 15 and 20 have not been withdrawn and were included in the Office Action dated 5/2/06.

Drawings

1. It is noted that the drawing objection made in the Office Action dated 5/2/06 is invalid since the details that are not illustrated are not claimed however, the drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Locking device 44, second page of paragraph [0028], is not shown on the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Takata (US 2004/0183655). Regarding claim 1, Takata teaches a mechanical handle switch assembly integrated within a door of a vehicle and utilized for actuating a vehicle based system, comprising a door handle mechanism (1) coupled to a the door for actuation by a user, being movable in a substantially outboard direction for both actuating the vehicle based system and unlatching the door, a drive train mechanism (4) coupled to said door handle mechanism and being actuated by said door handle mechanism; and a switch device (5) operatively engaging said drive train mechanism and being selectively closed by said drive train mechanism. Regarding claims 2-3 and 5, the door handle mechanism has a lift configuration and is movable within a predetermined travel distance (O-A-B) including a switch-triggering distance (O-A) and an unlatching distance (A-B) that is greater than and inclusive of said switch-triggering

distance (see Fig. 1B), said door handle mechanism actuating said drive train mechanism and closing said switch device when said door handle is moved a substantially small portion of said predetermined travel distance. In regard to claim 9, Takata teaches a mechanical door handle switch assembly wherein said switch device is biased to an open position (i.e. the drive mechanism pushes the switch).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takata (2004/0183655) in view of Meinke (US 6264257). Takata teaches the applicant's basic inventive concept of a mechanical handle switch assembly as applied to claim 1 above but fails to teach a gear mechanism having a cam as the drive train mechanism. Meinke shows this to be old in the vehicle door handle assembly art. Meinke shows a

motor vehicle door handle assembly (32) wherein the drive mechanism is a gear mechanism (46 meshes with 64) including a cam mechanism (64). It would have been obvious to one of ordinary skill in the art to modify the Takata assembly to include the drive mechanism of Meinke in order to dampen the movement of the handle and reduce wear from repetitive forceful contact between moving parts.

7. Claims 10-11, 13 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takata (2004/0183655) in view of Geil et al (US 6181024). In regard to claims 10 and 18, Takata teaches a passive entry system for a vehicle comprising a controller (i.e. vehicle mounted unit, paragraph [0026]), a portable transponder (i.e. the portable unit, paragraph [0026]) carried by a user and utilized for communicating with said vehicle based transponder, a switch device (5) biased to an open position and coupled to the controller, said switch device for actuating said controller a challenge signal to said portable transponder, a drive mechanism (4) engaging the switch device for closing the switch device, a door handle (1) having a lift configuration coupled to the door for actuation by a user, said door handle being movable in a substantially outboard direction by a predetermined distance (O-A-B) for both actuating the passively-actuated vehicle system and unlatching the door, said predetermined distance including a switch-triggering distance (O-A) and an unlatching distance (A-B) that is greater than and inclusive of said switch-triggering distance (As shown in Fig. 1B), said switch-triggering distance is substantially less than said unlatching distance and is for triggering said switch device and actuating said controller for determining whether said user is authorized to enter the vehicle, said unlatching distance for providing access to the

vehicle, a locking mechanism (i.e. door locking mechanism, paragraph [0026]) coupled to and actuated by the controller, said locking mechanism for unlocking said door when said controller determines that said user is an authorized entity and before said door handle has moved by said unlatching distance. Takata fails to teach the mechanical door handle switch assembly including a vehicle-based transceiver, the vehicle-based transceiver coupled to said controller, a switch device (5) coupled to one of said controller and said vehicle-based transceiver, and the switch device for actuating said vehicle-based transceiver to transmit a challenge signal to said portable transponder. Geil shows that it is known in the mechanical door handle switch assembly art to construct a device for unlocking a door including a switch (2) coupled to one of a controller (4) and a vehicle-based transceiver (3), and the switch device for actuating said vehicle-based transceiver to transmit a challenge signal to said portable transponder. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify Takata's assembly as taught by Geil, since Geil states in column 1, lines 60-65 that retrofitting a locking system with a transmitter and transponder is simple and advantageous.

Claims 14-15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takata (2004/0183655) and Geil et al (US 6181024) as applied to claims 10 and 18 above and further in view of Meinke (US 6264257). Takata teaches the applicant's basic inventive concept of a passively actuated vehicle system but fails to teach a gear mechanism having a cam as the drive train mechanism. Meinke shows this to be old in the vehicle door handle assembly art. Meinke shows a motor vehicle door handle

assembly (32) wherein the drive mechanism is a gear mechanism (46 meshes with 64) including a cam mechanism (64). It would have been obvious to one of ordinary skill in the art to modify the Takata assembly to include the drive mechanism of Meinke in order to dampen the movement of the handle and reduce wear from repetitive forceful contact between moving parts.

Response to Arguments

Applicant's arguments with respect to claims 1-3, 5-7, 9-11,13-15 and 17-20 have been considered but are moot in view of the new grounds of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristina R. Gluchowski whose telephone number is 571-272-7376. The examiner can normally be reached on Monday-Friday, 7am-4:30pm, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KRG

BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER